

## **CHAPTER 49-01-02 LICENSURE AND FEES**

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**49-01-02-01. Fees.** The board charges the following fees:

1. To receive a license, one hundred fifty dollars.
2. To renew an annual license, one hundred dollars. This fee must be paid on or before January first of each year. To renew an annual license after January first, one hundred dollars and, in addition, the licensee may be subjected to disciplinary action.
3. To retake an examination within six months of the initial failure to pass the board's examination, fifty dollars.

**History:** Effective January 1, 2001; amended effective January 1, 2005; July 1, 2010.

**General Authority:** NDCC 43-25-07, 43-25-08, 43-25-09

**Law Implemented:** NDCC 43-25-07, 43-25-08, 43-25-09

**49-01-02-02. License applications.** To receive a license as a massage therapist, the applicant must complete an application provided by the board and must include the following additional information:

1. Sufficient proof to the board that the applicant has satisfied the education requirements in article 49-02.
2. A copy of the applicant's high school diploma or proof of equivalent education.
3. A statement from a licensed physician, written in the last year, that the applicant is free of signs or symptoms of contagious diseases or that the applicant has been trained in taking sufficient precautions to prevent the spread of communicable diseases.
4. Passport size photo.

The application and additional information must be postmarked or actually received by the secretary-treasurer at least thirty days before the examination date in order for the applicant to take the examination.

**History:** Effective January 1, 2001; amended effective January 1, 2005; July 1, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 43-25-07, 43-25-09

**49-01-02-03. Expired licenses.**

1. A license as a massage therapist is issued on an annual basis. A license expires on January first if the required renewal fee has not been paid on or by that date.
2. Practicing massage after a massage therapist's license has expired constitutes the unauthorized practice of massage. Practicing massage under an expired license is a violation of North Dakota Century Code section 43-25-03 and is grounds for the board to refuse to renew the person's license under subsection 3.
3. A license that has expired may be renewed within one year from the date of expiration upon payment of the required renewal fee and submitting current continuing education hours. The fee will not be prorated for any period during which the license was expired.
4. An application for renewal of a license more than one year after the license expired will be considered an application for initial licensure. This requirement includes passing the current licensing examination and meeting all other licensing requirements.
5. A licenseholder shall notify the board of any change in the licenseholder's name or mailing address, or of any change in the physical address of one of the licenseholder's places of business, within sixty days after the change occurs. Failure to notify the board may result in disciplinary action.

**History:** Effective January 1, 2001; amended effective July 1, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 43-25-03, 43-25-09

**49-01-02-04. Grounds for discipline.** A licensed massage therapist may be subject to disciplinary action by the board for any of the grounds authorized in North Dakota Century Code chapter 43-25, including:

1. Failure by the licensee to identify himself or herself before beginning the massage and failure to provide sufficient supervision of massage by students; or

2. Commission of one or more acts which indicate the licensee lacks good moral character and is therefore ineligible to be licensed by the board, including:
  - a. Engaging in criminal conduct involving the client as a victim;
  - b. Initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a current massage client of the licensee, even if the client attempts to sexualize the relationship; and
  - c. Consuming alcohol while providing massage services or with a client in a professional setting, including a massage establishment. A professional setting means an area where the environment is set up with equipment and supplies for providing massage.

**History:** Effective January 1, 2001; amended effective July 1, 2010.

**General Authority:** NDCC 28-32-02

**Law Implemented:** NDCC 43-25-07, 43-25-10

#### **49-01-02-05. Continuing education.**

1. To renew a license as a massage therapist, the licenseholder must submit sufficient proof to the board of completion of continuing education every two years, including the date, time, and location of the instruction, the name of the program or course, the instructor or instructors, and the provider of the program or course.
2. To qualify as continuing education under this section, the instruction must be offered by a qualified instructor and be directly related to the practice of massage therapy. The course of instruction must be approved in advance by the board. The licenseholder or provider must identify the instructor of the course and describe the qualifications of the instructor, the topics covered during the course, and the total hours for which the licenseholder seeks approval. Any continuing education is required to be preapproved by the board. When deciding whether to approve continuing education, the board will consider the quality and reputation of the provider and instructor, including consideration whether the provider or instructor is nationally recognized or accredited in the field of education of massage therapy or the specific subject being taught, and whether the instructor has the education and other requirements to teach the subject for credit as contained in section 49-02-02-02. Further, the board must determine whether the content of the course is appropriate for continuing education of massage therapy.
3. Continuing education may be obtained by remote means such as telephone, internet, correspondence course, or videotape. Any remote continuing education is required to be preapproved by the board. When deciding whether to approve remote continuing education, the

board will consider the quality and reputation of the provider and instructor, including consideration whether the provider or instructor is nationally recognized or accredited in the field of education of massage therapy or the specific subject being taught, and whether the instructor has the education and other requirements to teach the subject for credit as contained in section 49-02-02-02. Further, the board must determine whether the content of the course is appropriate for continuing education of massage therapy and whether the topic is suitable for training by remote means, such as ethics or business practices. The board may also consider whether the provider has adopted a procedure or method to determine that the licenseholder has actually reviewed the materials, such as by testing or other methods.

**History:** Effective January 1, 2001; amended effective January 1, 2005; July 1, 2010.

**General Authority:** NDCC 43-25-09

**Law Implemented:** NDCC 43-25-09